

Message Text

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FM SECSTATE WASHDC

TO USMISSION GENEVA

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FOR USDEL LIST ECOSOC ITEM 13(B)

FOL REPEAT STATE 151183 ACTION OSLO OTTAWA LONDON BOGOTA
LA PAZ TEHRAN ISLAMABAD THE HAGUE NEW DELHI STOCKHOLM
TOKYO ROME LAGOS AMMAN BELGRADE18 JUN.

QUOTE

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E.O. 11652: N/A

TAGS: PGOV, PFOR, UN, ECOSOC

SUBJECT: ECOSOC-U.S. PROPOSAL FOR INTERNATIONAL
AGREEMENT ON ILLICIT PAYMENTS

REF: A) STATE 147739, B) STATE 104346

1. BELOW IN PARA 4 IS TEXT OF U.S. DRAFT RESOLUTION ON
ILLICIT PAYMENTS CONVENTION WHICH WE PROPOSE TO HAVE ECOSOC
ADOPT AT ITS 61ST SESSION. ACTION POSTS SHOULD DELIVER
DRAFT AS SOON AS POSSIBLE TO OFFICIALS DEEMED APPROPRIATE
IN LIGHT OF PREVIOUS CONSULTATIONS PURSUANT TO REFTELS.
YOU SHOULD SEEK TO OBTAIN GOVERNMENT'S AGREEMENT TO CO-
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SPONSOR RESOLUTION AND COMMENTS THEREON ASAP. (FOR HAGUE,
NEW DELHI, STOCKHOLM, ROME, BELGRADE, PLEASE PRESENT TEXT
FOR INFORMATION OF GOVERNMENT IF JUDGED APPROPRIATE IN
LIGHT OF PRIOR CONSULTATIONS). YOU MAY INDICATE OTHER

COUNTRIES (NORWAY, CANADA, U.K., COLOMBIA, BOLIVIA, IRAN, PAKISTAN, JAPAN, NIGERIA, JORDAN) THAT HAVE SHOWN INTEREST IN CO-SPONSORING RESOLUTION AND STATE THAT WE HAVE HIGH HOPES FOR BROAD LIST OF CO-SPONSORS FROM ALL REGIONS.

2. IN PRESENTING TEXT, OFFICERS SHOULD DRAW ON FOLLOWING, IN ADDITION TO REITERATING SUCH POINTS IN REFTELS AS OFFICERS BELIEVE APPROPRIATE:

A) U.S. RESOLUTION IS ESSENTIALLY PROCEDURAL IN NATURE. WHILE USG DOES HAVE VIEWS ON CONTENTS OF EVENTUAL CONVENTION, (SEE PARA 3 OF REFTEL B), WE BELIEVE THAT THE BASIC GOAL AT ECOSOC SHOULD BE TO ESTABLISH THE FRAMEWORK NEEDED FOR THE DRAFTING AND CONSIDERATION OF THE CONVENTION. U.S. RESOLUTION THEREFORE AVOIDS GOING INTO SUBSTANTIVE POINTS, AS THE U.S. DOES NOT WISH TO PREJUDGE THE EFFORTS OF THE WORKING GROUP, WHICH SHOULD BE FREE TO EXAMINE ALL ASPECTS OF THE PROBLEMS AND VARIED APPROACHES TO CONTENTS OF THE CONVENTION.

B) SUPPORT OR CO-SPONSORSHIP OF U.S. RESOLUTION DOES NOT, OF COURSE, IN ANY WAY OBLIGATE A STATE TO EVENTUALLY RATIFY THE CONVENTION THAT IS PRODUCED. SUPPORT OF U.S. RESOLUTION WOULD MERELY INDICATE THAT A COUNTRY BELIEVES THAT A CONVENTION IS AN APPROPRIATE MEANS OF ENSURING EFFECTIVE CONCERTED ACTION ON AN INTERNATIONAL LEVEL TO ELIMINATE ILLICIT PAYMENTS AND RELATED PRACTICES IN TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS.

C) THE USG IS NOT WED TO ANY PARTICULAR LANGUAGE IN THE RESOLUTION. WE WELCOME SUGGESTIONS TO IMPROVE THE RESOLUTION AND LOOK FORWARD TO WORKING CONSTRUCTIVELY WITH OTHER DELEGATIONS AT GENEVA ON BOTH INFORMAL AND FORMAL LEVELS.

3. IF OFFICIALS DRAW AN UNFAVORABLE COMPARISON BETWEEN THE SPEEDY WORK PROGRAM PROPOSED IN THE U.S. RESOLUTION LIMITED OFFICIAL USE
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AND THE MORE LEISURELY SCHEDULE ESTABLISHED FOR THE UN TRANSNATIONAL COMMISSION TO DRAFT A CODE OF CONDUCT (TWO YEARS), OFFICERS MAY NOTE THAT THE CODE OF CONDUCT COVERS A VASTLY BROADER RANGE OF ISSUES AND THAT THERE EXISTS AT THE MOMENT CERTAIN DIFFERENCES OF APPROACH BETWEEN SOME OF THE COMMISSION MEMBERS. IN CONTRAST, WE BELIEVE THERE IS A COMMUNITY OF INTEREST AMONG ALL STATES IN REGARD TO ELIMINATING ILLICIT PAYMENTS, THE ISSUE IS A RELATIVELY NARROW ONE, AND THERE IS A MOMENTUM NOW FOR EFFECTIVE ACTION WHICH SHOULD NOT BE LOST.

4. TEXT OF RESOLUTION: QUOTE.

(LXI) INTERNATIONAL CONVENTION ON MEASURES TO COMBAT
ILLCIT PAYMENTS IN INTERNATIONAL TRADE AND
INVESTMENT TRANSACTIONS WITH GOVERNMENTS

THE ECONOMIC AND SOCIAL COUNCIL.

CONCERNED BY ALLEGATIONS AND EVIDENCE OF ILLICIT PAY-
MENTS IN INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS

WITH GOVERNMENTS,

RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX)
WHICH, INTER ALIA, CONDEMNED ALL CORRUPT PRACTICES,
INCLUDING BRIBERY, BY TRANSNATIONAL AND OTHER CORPORATIONS,
THEIR INTERMEDIARIES AND OTHERS INVOLVED, IN VIOLATION
OF THE LAWS AND REGULATIONS OF HOST COUNTRIES,

NOTING THE DECISION OF THE COMMISSION ON TRANS-
NATIONAL CORPORATIONS AT ITS 2ND SESSION TO FORWARD TO
THE ECONOMIC AND SOCIAL COUNCIL A PROPOSAL FOR AN INTER-
NATIONAL AGREEMENT TO ESTABLISH CERTAIN STANDARDS AND
PROCEDURES RELATIVE TO INTERNATIONAL TRADE AND INVESTMENT
TRANSACTIONS WITH GOVERNMENTS WITH THE AIM OF ELIMINATING
CORRUPT PRACTICES IN THESE AREAS,

NOTING FURTHER THE COMMISSION'S RECOMMENDATION THAT
THE COUNCIL CONSIDER THE MATTER OF CORRUPT PRACTICES ON A
PRIORITY BASIS AND TAKE APPROPRIATE ACTION AT ITS SIXTY-
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FIRST SESSION,

1. ENDORSES THE PREPARATION OF AN INTERNATIONAL
CONVENTION WHICH WOULD ESTABLISH STANDARDS AND PROCEDURES
AIMED AT ELIMINATING ILLICIT PAYMENTS IN INTERNATIONAL
TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS,

2. DECIDES

(A) TO ESTABLISH A SPECIAL PREPARATORY COMMITTEE OF
HIGH-LEVEL GOVERNMENTAL EXPERTS TO WORK WITH A VIEW TO
ELABORATING BY THE MIDDLE OF 1977 A PRELIMINARY DRAFT OF
AN INTERNATIONAL CONVENTION ON MEASURES TO COMBAT ILLICIT
PAYMENTS IN INTERNATIONAL TRADE AND INVESTMENT
TRANSACTIONS WITH GOVERNMENTS,

(B) THAT THE SPECIAL PREPARATORY COMMITTEE SHALL BE
COMPOSED OF 18 MEMBERS ELECTED BY THE ECONOMIC AND SOCIAL
COUNCIL ON A BROAD AND REPRESENTATIVE GEOGRAPHICAL BASIS,

(C) THAT THE SPECIAL PREPARATORY COMMITTEE SHALL MEET IN 1976 AND AS NECESSARY IN 1977, THE SESSIONS TO BE OF SUFFICIENT DURATION TO PERMIT COMPLETION OF ITS TASK,

(D) THAT THE CENTRE ON TRANSNATIONAL CORPORATIONS SHALL PROVIDE THE SPECIAL PREPARATORY COMMITTEE WITH SUCH SUPPORT AND ASSISTANCE AS THE SPECIAL PREPARATORY

COMMITTEE MAY REQUIRE TO COMPLETE ITS TASK.

3. REQUESTS OTHER U.N. AGENCIES AND BODIES TO RENDER SUCH ASSISTANCE TO THE SPECIAL PREPARATORY COMMITTEE AS IT MAY REQUEST.

4. DECIDES FURTHER

(A) THAT THE SPECIAL PREPARATORY COMMITTEE SHOULD SUBMIT A REPORT TO THE 63RD SESSION OF THE COUNCIL CONTAINING THE DRAFT INTERNATIONAL CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS IN INTERNATIONAL TRADE AND LIMITED OFFICIAL USE
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INVESTMENT TRANSACTIONS WITH GOVERNMENTS;

(B) TO REVIEW THE AFOREMENTIONED REPORT AT ITS 63RD SESSION AND TO FORWARD A FINAL TEXT OF THE CONVENTION TO THE GENERAL ASSEMBLY WITH THE RECOMMENDATION THAT THE ASSEMBLY AT ITS 32ND SESSION TAKE ALL DECISIONS AND ACTIONS NECESSARY FOR THE OPENING FOR SIGNATURE OF AN INTERNATIONAL CONVENTION ON MEASURES TO COMBAT ILLICIT PAYMENTS IN INTERNATIONAL TRADE AND INVESTMENT TRANSACTIONS WITH GOVERNMENTS. END QUOTE.

5. FOR NEW DELHI: INDIA NOT MEMBER OF ECOSOC THIS YEAR. EMBASSY TO ASCERTAIN WHETHER INDIA WILL PARTICIPATE IN JULY ECOSOC AS OBSERVER. IF SO, WE REQUEST THAT DEMARCHE BE MADE AS SOON AS POSSIBLE ALONG LINES SET OUT IN REFTELS B AND C IN EFFORT TO WIN INDIA'S SUPPORT IN THE COUNCILS OF THE G-77 FOR U.S. PROPOSAL.

IF INDIA WILL NOT BE OBSERVER AT ECOSOC OR OTHERWISE PARTICIPATING IN SHAPING OF G-77 POSITION FOR ECOSOC MEETING, DEPT. REQUESTS THAT EMBASSY, ON APPROPRIATE OCCASION, BRIEF RELEVANT OFFICIALS ON U.S. PROPOSAL. CONVENTION WILL ULTIMATELY COME BEFORE UNGA AND INDIA'S SUPPORT WILL BE MOST IMPORTANT AT THAT TIME.

6. FOR LAGOS: AT THIS POINT WE DO NOT HAVE CO-SPONSORSHIP OF ANY BLACK AFRICAN STATE AND NIGERIA'S AGREEMENT WOULD THEREFORE BE ESPECIALLY IMPORTANT. IF YOU DEEM IT

APPROPRIATE, YOU MAY STATE THAT NIGERIA, AS FOREMOST BLACK
AFRICAN STATE, IS IN BEST POSITION TO TAKE AFRICAN LEADER-
SHIP ROLE ON THIS IMPORTANT ISSUE AND THAT THE BILATERAL
AGREEMENT BETWEEN NIGERIA AND U.S. RELATED TO LOCKHEED
CASE IS INDICATION THAT OUR INTERESTS ON QUESTION OF
ILLICIT PAYMENTS ARE SIMILAR AND THAT WE CAN WORK
TOGETHER ON THIS ISSUE. KISSINGR

UNQUOTE KISSINGER

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